

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 01, 2023

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Guthrie, Vice Chairman Bernt, Senators Winder, Anthon, Harris, Lee, Toews, Wintrow, and Ruchti

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Guthrie** call the Senate State Affairs Committee (Committee) meeting to order at 8:02 a.m.

MINUTES APPROVAL: **Senator Anthon** moved to approve the minutes of February 22, 2023. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

H 155 **HEALTH - Adds to existing law to prohibit requiring, for certain purposes, a COVID-19 vaccine or a vaccine offered under emergency use authorization.** **Representative Monks** referenced Executive Order 2021-04 prohibiting the state of Idaho from requiring proof of vaccination to receive or access state services and facilities. The legislation expanded the Governor's order and prohibited requiring proof of negative test results in order to access state services and facilities, or to be hired, or to maintain employment with the state with some exceptions. **Representative Monks** summarized this was essentially a prohibition against the vaccine passports. He was agreeable to amendments to meet specific, acceptable changes to the legislation.

Senator Wintrow asked how the bill applied to cities, and why the Corona Virus was singled out. **Representative Monks** indicated some aspects of the bill would apply to cities as political subdivisions of the state. He stated vaccines had been offered for a long time without the concerns that attached to this specific virus. He said the language about the shot could be expanded if someone wanted to help author it. He stated it was not appropriate to force people to take a shot that was not working for all mutations of the virus. He said some exceptions and exclusions were already addressed in other sections of code and he wanted to avoid duplications and repetitions.

TESTIMONY: Darryl Ford, Kathy Griesmyer (City of Boise), and Craig Sjoberg submitted the appended letters in support of **H 155** (Attachment 1).

Kathy Griesmyer, City of Boise, thanked Representative Monks for addressing exemptions for testing and vaccine requirements related to employment and job duties by political subdivisions. She urged the Committee to move forward with a friendly amendment.

MOTION: **Senator Anthon** moved to send **H 155** to the **14th Order of Business** for possible amendments. **Senator Bernt** seconded the motion.

DISCUSSION: **Senator Anthon** stated the Committee considered these issues in the past and advanced a consistent message that people should deal with health issues with their doctors. Decisions should be made on a case-by-case basis as to what was good for a person's health. For him, the idea someone could not access services without a vaccination was ridiculous. **Senator Wintrow** noted because the virus rapidly mutated, the statute might have to be amended. She understood the need for privacy but added this was a potentially deadly communicable disease. **Senator Winder** said the Corona Virus presented an interesting process and more was known about it today than in the past. He informed the Center for Disease Control (CDC) looked at significant health impacts from this shot that did not normally appear with other shots. He said the State of New York acknowledged health care professionals could not require the vaccine as part of employment unless the requirement was in the original term of the employment contract. He added the military could not require a COVID shot. He believed this legislation was a step in the right direction and with amendments it would be workable. **Senator Lee** recognized Representative Monks's hard work on the issue to assure freedoms related to the shot. **Chairman Guthrie** commented that never in his lifetime did he remember anything being pressed so hard to mandate and the resultant push back.

VOICE VOTE: The motion carried by **voice vote**.

H 170

STATE GOVERNMENT - Adds to existing law to prohibit state agencies from donating to or sponsoring a nongovernmental event or organization, to provide exceptions, and to provide a penalty. **Representative Monks** explained the legislation added a new section 67-2359, Idaho Code, and outlined exceptions as made by a board or commission and approved by its chief executive officer to provide reporting requirements and to provide a penalty. He shared the philosophical question was of the proper role of government to take taxpayer monies and appropriate them to organizations. If it was okay to give to one, it had to be okay to give to all. He asked who had the right to determine what private organizations should receive taxpayer dollars. **Representative Monks** addressed the current 20 departments recognized to receive appropriated funds from elected officials. He stated the chief executives that authorized funding should have to report to the legislature where the funds went and for what. Some language for **H 170** came from the Governor's staff.

Senator Ruchti asked if the Governor's office gave examples they thought could be problematic. **Representative Monks** cited advertisements on buses and said the agency advertising was getting a benefit from it. He said the authorizations should be okayed by a letter from the Governor's Office and the issue reassessed next year. He noted exceptions had been allowed. **Senator Anthon** interjected that advertising versus sponsorship was not the same but because of similar wording it might be taken that way. **Representative Monks** agreed there would always be questions about whether or not an agency was receiving a service or benefit. He felt the process had to start somewhere. **Senator Anthon** agreed there were some things the state government should not be funding. **Senator Wintrow** asked how this impacted universities. **Representative Monks** responded that anyone using taxpayer money to donate to something without a return was probably not okay. **Chairman Guthrie** clarified this bill was not prohibiting, it was disclosing where taxpayer money went. **Senator Wintrow** asked if **H 170** applied to grants and auxiliary funds for things like the student union building, recreation center, housing, etc. **Representative Monks** stated if it was not okay to take money from one pocket, it was not okay to take it from the other. **Senator Toews** asked if this aligned with the gifting clause. He liked the bill but was concerned about a lack of definitions. He worried what qualified as appropriate use or misuse of public funding. He appreciated the focused approach to the legislation. **Representative Monks** referred to Idaho Code sections that addressed various definitions and clarified this bill was referencing the big 20 departments. **Senator Wintrow** asked

what was the motivation behind this bill. **Representative Monks** declared it was to address the appropriate use of government money and how taxpayer money should not be spent without providing a service.

TESTIMONY:

Emilie Jackson-Edney electronically registered her opposition to **H 170**. Craig Sjoborg submitted the appended letter in support of **H 170** (Attachment 2).

Kevin Bailey, Chief Executive Officer of the Idaho Nonprofit Center, testified in opposition to **H 170**. He said his agency served 800 nonprofits throughout the state. He felt this legislation presented an immense burden and was confusing. He said this conflated donations and sponsorship contracts. He believed **H 170** would increase the administrative burden for many nonprofits and urged the Committee to hold the bill. He claimed the bill would hamstring what was or was not appropriate because sponsorships were multiple page contracts that contained deliverables, not donations. He repeated that the bill conflated terms.

Representative Monks closed by saying thousands of exemptions was a serious problem. Deliverable was associated with getting a fee for services. He said he was willing to clarify terms with the Governor's Office. What he heard, highlighted concerns about spending taxpayer money. He was agreeable to sending **H 170** to the 14th Order of Business for amendments.

MOTION:

Senator Anthon moved to send **H 170** to the 14th Order of Business for possible amendments. **Senator Bernt** seconded the motion.

Senator Wintrow expressed concern about state agencies making decisions about sponsorship. She referenced Transparent Idaho and shared concerns about who would be defining what was appropriate or not because there are disagreements about the definition of appropriateness. She voiced concern that things could be censored and that we were creating a hit list where department heads could be subjected to punishment if others deemed something inappropriate.

VOICE VOTE:

The motion carried by **voice vote**. **Senator Wintrow** requested to be recorded as voting no.

H 97

STATE CONTROLLER - Amends and adds to existing law to provide that all state officers and agencies shall report agreements entered into to the State Controller. **Representative Scott** explained this legislation allowed for transparency of all agreements outside the normal financial business of the state. It did not affect counties, cities, or local governments. It was about providing detailed information on how taxpayer money was used. In December 2022 she requested to see all agreements the government had with a Memorandum of Understanding (MOU) or Memorandum of Agreement (MOA), and service agreements. She stated there were over 5,100 agreements the state entered into that were not readily available to the public. She spoke with the State Controller's Office, who stated MOUs and MOAs did not generally have expenditures. Those were agreements between two agencies or added new duties. This bill was a broad view of agreements the state entered into with the Executive, Legislative, and Judicial branches of government. It would require an agency to report the agreement to the State Controller's Office with 10 days of making the agreement as a way of keeping an eye on government. The link <https://growingfreedomidaho.com/mou-moa/> provided access to the agreements **Representative Scott** referenced in her presentation.

Senator Lee asked how the bill applied to community colleges or universities, and about duplications. **Representative Scott** said they would have to share the agreements and be reported on the State Controller's list. She denied there would be overlapping because much was already being reported. **Senator Toews** appreciated the attention to public trust. He asked if this information would be obtained through direct access or public records requests. **Representative Scott** explained she did not want to spend money and just started with the list. She estimated it would cost a hundred thousand dollars to provide software to address the transparency for searchable documents. Right now, it was only providing a list and contact person to the State Controller's Office.

MOTION: **Senator Toews** moved to send **H 97** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

HCR 2 **ELECTORAL COLLEGE - States findings of the Legislature and expresses support of the Electoral College system.** **Senator Zuiderveld** stressed the importance of the Electoral College system and outlined the dangers of a National Popular Vote Interstate Compact (NPVIC) approach to electing the President of the United States. The bill urged the Governor, Attorney General, and Secretary of State to join the Legislature in opposing any efforts to repeal or nullify the Electoral College process. She explained its history and how the Electoral College system worked and emphasized the importance of it to smaller states like Idaho.

TESTIMONY: Emilie Jackson-Edney electronically registered her opposition to **HCR 2**.

Isabella Schiffler testified in support of **HCR 2** as protection for the state. She feared presidential candidates might focus on higher populated states and ignore lower populated states if the Electoral College was eliminated. She shared, the founding fathers created the Electoral College to protect states from a national popular vote and keep a republic form of government.

MOTION: **Senator Harris** moved to send **HCR 2** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion.

Senator Wintrow said she was not sure the current system benefited Idaho. She suggested a popular vote might give Idaho more voice and attention. **Senator Winder** believed the founders of the nation had divine wisdom when they thought about some things like the Electoral College. He felt the Electoral College gave equal recognition to small states and even though Idaho had few electoral votes, the process worked. **Senator Ruchti** said he would vote to support sending **HCR 2** to the floor but he might change his mind on the floor.

VOICE VOTE: The motion carried by **voice vote**. **Senator Wintrow** requested to be recorded as voting no.

H 90 **LEGAL NOTICES - Amends existing law to revise provisions regarding electronic publications of legal notices.** **Kelly Packer**, Executive Director for Association of Idaho Cities, informed that the Association of Idaho Cities identified a policy to help entities save money and share that savings with property taxpayers. **H 90** added a digital time stamp to public meeting notices and a hold harmless clause protecting entities in the event a meeting notice was improperly published through no fault of the city.

Senator Wintrow clarified this bill did not take away publishing in the newspaper requirements. **Ms. Packer** stated it did not.

TESTIMONY: **Wendy Severy**, City Clerk and Treasurer of the City of Wilder, submitted the attached letter in support and opposition to **H 90** (Attachment 3).

MOTION: **Senator Anthon** moved to send **H 90** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion.

Senator Toews asked how small a window of time a person had for notifications. **Ms. Packer** said there was not much difference because daily newspapers published on a portal at the same time. **Senator Anthon** confirmed **H 90** was not changing the statutory notice provisions. He commented there were fewer people reading printed newspapers and adjustments had to be made as to how notices were published. While not ready to do away with newspapers, this was a continued step towards a new reality.

VOICE VOTE: The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 9:26 a.m..

Senator Guthrie
Chair

Joyce Brewer
Secretary